

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

December 1, 2011

The Honorable Steven Chu
Secretary
United States Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Secretary Chu:

We write today regarding certain requests that the Committee on Energy and Commerce has made to the Department of Energy (DOE) during the course of its investigations of the Solyndra loan guarantee, and the Section 1705 loan guarantees generally, that are currently outstanding.

Regarding the Solyndra investigation, we sent you two letters, dated February 17, 2011, and September 21, 2011, that requested certain documents relating to the Solyndra loan guarantee. In particular, those letters requested communications between and among DOE and the Office of Management and Budget (OMB), the Department of the Treasury, Solyndra, and the White House relating to the loan guarantee. Your communications, as well as documents you sent or received, relating to the Solyndra loan guarantee are covered by these requests.

Although the Committee first requested documents relating to Solyndra over nine months ago, none of your communications relating to the loan guarantee were shown to the Committee until November 15, 2011, two days before you were scheduled to testify before the Subcommittee on Oversight and Investigations regarding Solyndra. Based on that *in camera* review of those documents, we are concerned that the Committee has not yet received all of your communications and documents relating to Solyndra. For example, the earliest communication made available to the Committee was dated April 6, 2009; the *in camera* review did not include any communications or documents from the time period during which the Solyndra application was under review prior to the conditional commitment in March 2009. We know, however, that Loan Programs Office staff briefed you on the loan guarantee applications under review in January and February 2009, and shared timetables or charts on the status of the applications during these briefings.

In addition, we have not received any documents relating to the application Solyndra filed in September 2009 for a second loan guarantee. We believe that these documents are responsive to our document requests of February 17 and September 21, 2011, as the second application clearly relates to the first Solyndra loan guarantee application: the purpose of both applications was to obtain financing for the Fab 2 facility and its production facility. We request, therefore, that you produce all documents and communications relating to Solyndra's second loan guarantee applications that are responsive to the Committee's February 17 and September 21 requests.

During the *in camera* review of DOE documents, Committee staff asked DOE staff to ensure that a thorough search for responsive materials had been conducted, and that all documents and communications that you may have sent or received relating to Solyndra had been produced to the Committee. To date, we have not received a response or received additional documents. If additional responsive documents have been identified, we ask that they be produced to the Committee immediately. If not, we respectfully request that you inform us in writing no later than December 6, 2011, that all documents in your possession that are responsive to the Committee's February 17 and September 21 requests have been produced.

Further, only your communications and emails were made available to the Committee during the *in camera* review. According to DOE staff, their search did not identify any materials or documents relating to Solyndra that DOE staff may have shared or provided to you during briefings. However, we know that such materials exist. For example, we are aware that you met with OMB Directors Peter Orszag and Jacob Lew in July 2010 and January 2011, respectively, regarding the loan guarantee program. Documents produced to the Committee show that the Solyndra loan guarantee was a topic of discussion at those meetings, however, the *in camera* review did not include any briefing materials or other documents you may have received in preparation for these meetings. Finally, a June 27, 2011, email that DOE produced to the Committee shows that you were briefed on that date by DOE staff in advance of a meeting with President Obama, and one of the "likely topics" for the meeting was Solyndra and its "current status." Yet, no briefing materials or other documents relating to your meeting with the President have been produced or otherwise made available to the Committee. Prior to your appearance before the Subcommittee, we specifically reiterated our request for any briefing materials related to Solyndra, and we were assured that we would receive any such materials prior to your testimony. We still have not received these materials.

We also request that you provide additional information regarding certain questions that Committee members asked you during the November 17, 2011, hearing before the Subcommittee on Oversight and Investigations. First, several Members on the Committee asked you about an email from one of Solyndra's investors that stated that DOE had instructed Solyndra not to announce employee layoffs until after the November 2010 elections. During the hearing, you stated that you intended to investigate this matter and take "appropriate actions" once you determined what happened. We respectfully request that you inform the Committee in writing no later than December 6, 2011, about the results of your investigation.

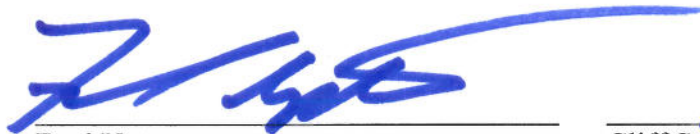
In addition, during the November 17, 2011, hearing, you stated that you were not aware of communications between the White House and DOE at the time of the restructuring, but you

became aware of them during your preparation for the hearing. Documents made available to the Committee confirm that such communications did, in fact, occur. We request that you look into this matter to determine the extent of the communications — either written or oral — between the White House and DOE relating to DOE's decision to restructure the loan in February 2011. If written communications exist, we request that you provide them to the Committee no later than December 6, 2011. If DOE staff had telephone conversations or meetings with White House staff about DOE's decision to restructure the Solyndra guarantee, we request that you provide the Committee with a written description of these meetings, including the dates of these conversations or meetings; the participants on behalf of DOE, the White House, or other executive branch agencies; and a summary of the matters discussed during these meetings.

Finally, on October 6, 2011, we requested that you provide certain information relating to each loan guarantee awarded under Section 1705. On October 28, 2011, DOE made a first production consisting of the credit committee papers for each loan guarantee, but has yet to produce any other documents relating to these guarantees, such as due diligence reports, credit committee meeting minutes, or communications. We request that your staff contact Committee staff immediately to determine a schedule for production of these documents.

Please do not hesitate to contact Karen Christian or Todd Harrison of the Committee staff at (202) 225-2927 if you have any questions.

Sincerely,



Fred Upton
Chairman



Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations